

Defendants filed a motion to compel at docket 2061. At docket 2092, the court denied the motion to compel as moot based on plaintiffs' representation in their response at docket 2063 that the parties had agreed upon a resolution to the issue and on the fact that defendants did not file a reply to contradict plaintiffs' representation. Defendants filed a request for clarification at docket 2096, which asked the court to reconsider its denial of the motion to compel and direct the plaintiffs to answer the disputed interrogatory more completely, without objection. The court issued another order at docket 2097, again setting forth the reasons for its denial of the motion to compel.

1 Defendants then filed a motion for reconsideration at docket 2098, asking the
2 court to reconsider its order at docket 2097 and to direct plaintiffs to provide more
3 thorough responses to Interrogatory No. 1 of their Second Set of Non-Uniform
4 Interrogatories ("Interrogatory No. 1"). In the motion, defendants stress that they did not
5 file a reply brief to their original motion to compel because no reply briefs were allowed
6 by the court and argue that they do, in fact, challenge plaintiffs' representation that the
7 discovery issue has been resolved. Defendants argue that there are still deficiencies in
8 plaintiffs' responses to Interrogatory No. 1. Plaintiffs' response is at docket 2101, and
9 defendants' reply is at docket 2103.
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11 **II. DISCUSSION**

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13 The court has reviewed all the filings related to defendants' motion to compel and
14 request for clarification and concludes that the parties have not reached an agreement
15 about the discovery dispute. In plaintiffs' response at docket 2063, they indicated that
16 they agreed to supplement their responses to Interrogatory No. 1 so that any references
17 to depositions would contain citations to specific portions of the relevant deposition.
18 They stated that they would be submitting the supplemental responses within the week.
19 They then argued that this agreement was a sufficient resolution to the discovery
20 dispute and that defendants' motion to compel could be denied as moot. The court's
21 scheduling order at docket 2048 did not allow for a reply and defendants did not file
22 anything further. The court denied the motion to compel as moot.
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25 However, through their motion for reconsideration, defendants argue that
26 plaintiffs' purported resolution — supplemental responses to Interrogatory No. 1 to
27 provide more specific citations when referencing depositions — was not a sufficient
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1 resolution because it did not address the other issues raised in the motion to compel.
2 Defendants' motion to compel also requested that plaintiffs submit a response to each
3 subquestion in Interrogatory No. 1 and that plaintiffs withdraw improper objections.
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5 It is not clear from the record what, exactly, the parties agreed to in regards to
6 this discovery dispute. There was some understanding prior to defendants' motion to
7 compel that plaintiffs would submit supplemental responses to Interrogatory No. 1, but
8 there must have been a misunderstanding as to what those supplemental responses
9 would address.¹ Nevertheless, the court concludes that plaintiffs' answers are
10 incomplete, even with the supplemental responses.
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12 Plaintiffs' supplemental responses to Interrogatory No. 1 are incomplete because
13 they rely on objections.² At a hearing on February 5, 2013, the court determined that
14 Interrogatory No. 1 was appropriate, and plaintiff did not object.³ Plaintiffs had the
15 opportunity to object and failed to do so. Thus, any objection was waived at that time,
16 and plaintiffs cannot rely on objections to answer Interrogatory No. 1.
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18 Furthermore, plaintiffs' supplemental responses to Interrogatory No. 1 are
19 incomplete because they fail to answer each subquestion in Interrogatory No. 1.
20 Instead, plaintiffs generally object and then reference other discovery documents
21 without specifying which documents are responsive to the various subquestions. Thus,
22 plaintiffs have failed to respond completely to Interrogatory No. 1 by failing to answer
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24 ¹ The email from plaintiffs' counsel to defendants' counsel on April 5, 2013, simply stated
25 that plaintiffs agreed to serve amended responses to Interrogatory No. 1 "as [counsel]
discussed" on April 3, 2013. See Doc. 2063-1 at p. 4.

26 ²Doc. 2096-1.

27 ³Doc. 2060 at pp. 33-34.

1 each subquestion or identify with particularity where in the other discovery documents
2 the answers to such subquestions are located.

3 **III. CONCLUSION AND ORDER**

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5 Based on the foregoing, defendants' motion for reconsideration is GRANTED.
6 Plaintiffs, including Marisia Farmer – the plaintiff acting on behalf of deceased plaintiff
7 Gordon Farmer, are directed to provide complete answers to each subquestion in
8 Interrogatory No. 1 without objection within fourteen (14) days from the date of this
9 order. To the extent plaintiffs answer the subquestions by reference to other discovery
10 responses, plaintiffs are directed to provide specific citations to indicate where in the
11 referenced document defendants can find the answers to each subquestion. If plaintiffs
12 do not have responsive information, they are directed to specifically state as much in
13 their supplemental responses.
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15 As for plaintiff Charlotte Stickle, who was the substituted party for deceased
16 plaintiff James Stickle, the record demonstrates that she is now deceased. Her notice
17 of death was filed on September 6, 2013, at docket 2102. Under Rule 25, the
18 decedent's successor or representative has 90 days to request substitution. Thus, the
19 status of James Stickle's claims is unclear at this time, and no supplemental response
20 need be filed related to the Stickle claims until it is clear that someone has been
21 substituted for the Stickle plaintiff.
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23 Pursuant to Rule 37(a)(5), defendants are awarded attorney's fees and costs
24 incurred in connection with the filing of the motion to compel and motions for clarification
25 and reconsideration. Plaintiffs shall file a memorandum supporting the request within
26 fourteen (14) days from the filing of this order. Plaintiffs shall respond within seven (7)
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1 days from service of the memorandum. A reply may be filed within three (3) days from
2 service of the response.

3 DATED this 11th day of September 2013.

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6 /S/
7 JOHN W. SEDWICK
8 UNITED STATES DISTRICT JUDGE
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